

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

DR. TERRY WOMACK,

Plaintiff,

v.

**DAVIS McTEAGUE, DOMINGA
GUERRERO, MICHAEL VISSERS,
JOYCE McCLURE, STEVEN KOC,
ESTELLE PARKER-KENT, MICHAEL
SUMMERS, and LORI LINDLEY,**

Defendants.

No. 2:10-cv-332-SU

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION**

SIMON, District Judge.

On June 11, 2012, Magistrate Judge Patricia Sullivan issued Findings and Recommendation (Dkt. 65) in the above-captioned case. Judge Sullivan recommended that this court grant Defendants' Motion for Summary Judgment (Dkt. 35). Neither party has filed objections to Judge Sullivan's Findings and Recommendation.


Under the Federal Magistrates Act, the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." Federal Magistrates Act, 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified

proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3). If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, “[t]here is no indication that Congress, in enacting [the Magistrates Act], intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*), *cert. denied*, 540 U.S. 900 (the court must review *de novo* the magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Federal Rule of Civil Procedure 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this court follows the recommendation of the Advisory Committee and reviews Judge Sullivan’s Findings and Recommendation (Dkt. 65) for clear error on the face of the record. No such error is apparent. Therefore the court orders that Judge Sullivan’s Findings and Recommendation (Dkt. 65) is ADOPTED. The Motion for Summary Judgment (Dkt. 35) is GRANTED and the case is DISMISSED with prejudice.

2012
Dated this 19th day of July, 2012.


 Michael H. Simon
 United States District Judge